

Sole Source Determination

Instructions for Completion and Publication of Sole Source Determination

Pursuant to Miss. Code Ann. § 27-104-7(2)(o) and (4) and Section 3-206 of the *PPRB OPSCR Rules and Regulations*, the Agency Head must determine in writing that only one source is available to provide a personal or professional service needed by the Agency (regardless of the cost of the service). This determination and the terms of the proposed contract must be published on the Procurement Portal¹ for 14 consecutive days. Any potential objectors have 7 days following the last date of publication to file an objection with the Agency (i.e. 21 days following initial publication).

OPSCR recommends that Agencies publish a full copy of the proposed contract with this determination. OPSCR further recommends that Agencies post this determination and the terms of the proposed contract on the Agency website concurrently with posting on the Procurement Portal.

The determination must provide the following required information:

1. The personal or professional service offered in the contract;
2. An explanation of why the personal or professional service is the only one that can meet the needs of the agency;
3. An explanation of why the source is the only person or entity that can provide the required personal or professional service;
4. Any market analysis conducted in order to ensure that the service required was practicably available from only one source;
5. An explanation of why the amount to be expended for the personal or professional service is reasonable; and
6. The efforts that the agency went through to conduct a noncompetitive negotiation to obtain the best possible price on the personal or professional service for the taxpayers.
7. Instructions to file an objection to the sole source determination (see page 3 of determination).

The Agency should maintain a copy of this determination in its procurement file, which will meet the requirements of Miss. Code Ann. § 27-104-7(4).

If no objections are filed, the Agency may submit the contract for PPRB approval using the process and timelines for all other personal and professional service contracts requiring PPRB approval. If an objection is filed, the Agency may either agree with the objector that the vendor is not a sole source and conduct a competitive procurement or appeal the objection to the PPRB 30 days prior to the next regularly scheduled PPRB meeting. The Agency will have the burden to prove to the PPRB that the vendor is a sole source. If the PPRB has any reasonable doubt as to whether the vendor is a sole source, the Agency shall conduct a competitive procurement.

The PPRB submits quarterly reports to the Committees on Accountability, Efficiency, and Transparency in the Mississippi State Senate and House of Representatives, which may request Agencies who have submitted sole source contracts to offer an explanation of those contracts by December 15 each year.

¹Throughout this document, any reference to the Procurement Portal refers to the Buying and Selling to Government in Mississippi website: https://www.ms.gov/dfa/contract_bid_search/Home/Sell. If you need assistance with posting to the Procurement Portal, contact the MMRS helpdesk at mash@dfa.ms.gov.

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Miss. Code Ann. § 27-104-7(2)(o) and (4)

Section 3-206 of the PPRB Rules and Regulations

THE PROPOSED CONTRACT TERMS ARE ATTACHED TO THIS DETERMINATION.

Agency: _____

Proposed Sole Source Vendor: _____

Intended Contract Term: _____

Anticipated Contract Amount: _____

The personal or professional service offered in the contract is:

The personal or professional service described above is the only one that can meet the needs of the agency because:

The proposed sole source vendor is the only person or entity that can provide the required personal or professional service because:

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The Agency conducted the following market analysis in order to ensure that the service required was practicably available from only one source (any documentation relevant to the market analysis conducted should be attached to this determination):

The amount to be expended for the personal or professional service is reasonable because:

The Agency conducted a noncompetitive negotiation with the proposed sole source vendor to obtain the best possible price on the personal or professional service by:

Based on the foregoing, I have determined the intended vendor is the sole provider of the personal or professional services needed by the Agency. Pursuant to Miss. Code Ann. § 27-104-7(2)(o) and (4) and Section 3-206 of the PPRB Rules and Regulations, the Agency intends to award this contract through a sole source procurement.

Agency Head Name: _____ Title: _____

Signature: _____ Date: _____

The Agency Head must sign this determination and cannot delegate that authority to other Agency personnel.

Instructions to File an Objection to this Sole Source Determination:

Any person or entity who objects to the determination that the proposed vendor is the sole provider of the personal or professional services described herein should file an objection with the Agency and the Public Procurement Review Board (PPRB).

The objection must provide a detailed explanation of why the personal or professional service provider is not a sole source; identify the Agency; identify the proposed Sole Source Vendor; state the RFIN Number for the sole source determination and the date that determination was first published (if available); and identify the objecting party to include valid contact information by which the objecting party can be immediately reached by the Agency or the PPRB (or its staff).

The Agency is required to publicize the sole source determination for 14 days, after which parties who object to that determination have 7 days to file their objections. Timely submission of the objection is the sole responsibility of the objecting party, and the objecting party bears all risk regarding delivery of the objection. Objections received after the deadline will not be considered by the Agency or the PPRB.

Any such objection should be clearly labelled "OBJECTION TO SOLE SOURCE DETERMINATION" and should be submitted to the following persons:

For the Agency:

For the PPRB:

Public Procurement Review Board
c/o Brittney Thompson, Director
Office of Personal Service Contract Review
Mississippi Department of Finance and Administration

Hand Delivery:

501 North West Street, 7th Floor
Jackson, Mississippi 39201

U.S. Mail:

Post Office Box 267
Jackson, Mississippi 39205

Electronic Mail:

Brittney.Thompson@dfa.ms.gov
cc: OPSCR@dfa.ms.gov

Once an objection to the sole source determination is filed, the Agency may withdraw the sole source determination and competitively procure the service or appeal the objection to the PPRB. The Agency will have the burden to prove the proposed vendor is a sole source provider of the personal or professional services needed by the Agency. If the PPRB has any reasonable doubt as to whether the personal or professional service can only be provided by one source, then the Agency must competitively procure the service.